"Susan R. April" <sapril@perihq.com>
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To: Edward A. Boling Energy Task Force/CEQ/EOP

cc: rayclark@hurtnorton.com
Subject: Comment Submission

Dear Mr. Chairman:
We are please to submit the following comments (SEAcomments.doc) in response to your invitation to provide input to CEQ on the nature and scope of the Energy Streamlining Task Force. We feel strongly that our proposed approach, a regionally-scaled Strategic Environmental Assessment of the National Energy Policy, will streamline the permitting process, avoid litigation, and ensure the public has an opportunity to participate in regional decision-making. Our team, as outlined in the comment cover letter (SEAcover.doc), is exceptionally qualified to assist CEQ and the task force in this effort. We thank you for the opportunity to comment, and we look forward to discussing this exciting approach with you in the future.

Sincerely,

Susan R. April
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 - SEAcomment.doc  - SEAcover.doc

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October 26, 2001

Chairman
Council on Environmental Quality
Executive Office of the President
17th and G Streets, NW
Washington, DC 20503
Attention: Task Force

RE: Energy Task Force Request for Comments

Dear Mr. Chairman:

As detailed in the attached proposal, an experienced team of environmental and energy experts has developed a customized and dynamic environmental strategy to ensure the National Energy Policy can be implemented quickly. Our approach calls for a Strategic Environmental Assessment that would streamline the permitting process, avoid litigation, and ensure the public has an opportunity to participate in regional decision-making. We believe that the implementation of such an approach in a region or regions within the United States would be enormously advantageous for the Administration, the Task Force, future decision-makers and the general public.

Our team consists of Susan April, from Princeton Energy Resources International, a world leader in energy analysis and assessment; Ray Clark, President of the Clark Group and former Associate Director at the Council of Environmental Quality and was named Acting Assistant Secretary of the Army by Secretary Rumsfeld; Ben Underwood, President of Global Environmental Solutions and current Chairman of the Legal Issues Committee for the National Association of Environmental Professionals; and Charles Alton, Manager for Environmental Policy from the Bonneville Power Administration. The strategic regional approach that we would like to bring to the Task Force has been successfully applied by the Bonneville Power Administration and deemed "superior" by the United States Court of Appeals for the Ninth Circuit.

We regret exceeding the requested page limitation by a little over one page, but the felt that the uniqueness of our proposal required some additional explanation. Our team would welcome the opportunity to discuss further the application of this proposal to the mission of the task force.

Thank you in advance for your time and consideration.

Sincerely,

Susan April

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A STRATEGIC APPROACH TO ADVANCING AN ENVIRONMENTALLY SOUND NATIONAL ENERGY POLICY

Introduction

Americans are expressing a rising concern with respect to whether the country has planned and developed sufficient energy capacity to meet the needs of a 21st century. While some will debate the extent of an energy "crisis" or the need to take immediate actions, the majority of Americans are concerned about energy and the environment, and want to participate in policy development in this area. Similarly, states, local and tribal governments want an opportunity to express their concerns regarding uniform application and coordination of a national energy policy. The Administration needs a forum to make the case for the strategic direction that it believes will be a reasonable and rational path to ensure energy security and environmental stewardship. The forum selected by the President, in Executive Order 13212, is the energy task force known formally as the White House Task Force on Energy Project Streamlining. We have designed a means to meet the goals of Executive Order 13212: an approach to explicating the interrelationship between energy projects, environmental issues, and permitting authorities that could further the mandate of the task force by helping both to identify opportunities to accelerate the completion of energy-related projects, while maintaining safety, public health, and environmental protections, and to help agencies create mechanisms to coordinate Federal, State, tribal and local permitting in geographic areas where increased permitting activity is expected.

As an initial step toward building a consensus on energy policy, Americans must be invited to participate in the implementation of the strategic vision of the National Energy Policy, including the opportunity to present alternative energy development paths. If they are not allowed meaningful participation in the development of the policy or its implementation, non-governmental organizations and the general public have proven that they will not hesitate to use legal means to stall or stop projects. One of the most prominent legal tools at the public's disposal is also the ideal mechanism for the Administration to consult the public, disclose the consequences of alternative directions, and convince the public of the superiority of its final decision. This tool also happens to be a statute with which the federal agencies must comply - the National Environmental Policy Act (NEPA). We propose to help the Administration use a variation of the traditional NEPA process as a tool to bring discipline and structure to the process of building consensus and promote the development of an energy infrastructure for the 21st century.

While some will argue that preparing the traditional NEPA analyses costs too much and takes too much time, it is unavoidable that a NEPA analyses will be required at some point in the federal approval process. Interaction with Federal permitting authority comes in many ways: the Nuclear Regulatory Commission approves nuclear power generating stations; the Department of Transportation approves operating plans for pipelines; the Corps of Engineers approves modifications to certain wetlands; the Fish and Wildlife Service has purview over endangered species and their habitat; the Minerals

Management Service has approval of off-shore leasing. In addition, any energy or infrastructure developments that will use federal lands, such as DoD or Bureau of Land Management, are also considered actions that require NEPA analysis. Our team will develop a matrix of the kinds of actions that require NEPA analysis overlaid with the agencies that have decision-making authority.

We are proposing to employ a new and dynamic variation to the traditional NEPA process to expedite decision-making, lessen overall costs, and create an indispensable process for state, federal, tribal and local decision-makers. CEQ encourages adaptations to the traditional environmental assessment processes to foresee and forestall environmental consequences and guide future decisions. In this instance, an experienced team of environmental and energy professionals has created and tested an analytical model that can be incorporated much earlier in the decision making process, thereby maximizing its effectiveness as a strategic tool for more effective policy making.

This approach is similar to a process that has gained widespread use in Europe, South America, and South Africa – the *Strategic Environmental Assessment (SEA)*. The SEA creates opportunities to reconsider traditional approaches to environmental assessment, such as the best time to launch a public process, the extent of a project's scope, and the level of analytical detail necessary for each tier of decision-making. SEA brings to decision making early consideration (albeit broad) of the environment, including incorporation of economic development and the material needs of human communities; early consultation with the public; a consideration of alternatives before there is an irreversible commitment of resources; and, importantly, a vehicle for interagency and intergovernmental coordination within a common process.

The U.S. has a long history of preparing "programmatic" NEPA analyses but realization of the full potential of SEA will require the implementation of a new model and a new approach to decision-making. In this model, the SEA will be prepared very early in the decision-making process. It will be a short, concise analysis from which subsequent analyses may be tiered. It will be available to decision-makers before the site-specific information is gathered. The analysis will focus on energy paths and regional needs, not specific locations. The second level analysis would be on the programs that the strategy yields. Whether within a particular energy category or at a ecosystem level, multiple agencies within a region could work together to prepare analyses on federal or state initiatives, rather than each agency preparing a separate analysis.

SPECIFIC PROPOSAL: A REGIONAL APPROACH

Strategic Decision-making: As detailed in our cover letter, we have assembled a special team of environmental and energy professionals to prepare a SEA for the national energy policy. We propose to demonstrate this approach in one or more regions at the discretion of the task force. Although the SEA would be designed to expedite future NEPA compliance for program and site-specific action, the SEA itself would not be a NEPA process, but would be a complementary process to inform decision-makers of the

environmental effects of alternative policy directions, and to coordinate federal and intergovernmental decision-making across different categories of energy-related projects in the region or regions. The SEA would provide an "Early Warning System" for decision makers at all levels within the region. Even without an actual proposal or particular location to examine, we are prepared to demonstrate ways to assess at a very early stage, the certain environmental impacts among alternate policy directions, for example: which occupy more or less land; which result in more or less habitat loss; whether one strategy or another results in fewer emissions of air, land or water pollutants; whether one approach or another consumes more energy; or whether one path may have more acceptable risks.

Another value of the SEA is that it allows for providing national leadership through a broad analysis of the types of actions that may be required by the agencies with permitting and approval authority, without committing the Administration to particular proposals. Using a matrix approach, the SEA would assess the likelihood of significant environmental effects ranging from "high," "medium," and "low," across all categories of energy-related projects in the region, thereby serving as a reference guide for future action. Further, the necessary coordination among the agencies in the region would ensure that there is no duplication of analysis, and that each agency provides timely information to prevent show stoppers at a later date.

There is always the question of how much information a policy-maker needs at a particular time. Often it may be sufficient to judge the consequences on several key macro issues, such as: (1) the use of natural resources, including energy and raw materials; (2) the quantity and quality of waste streams; (3) emissions to air, water, soil; (4) human health and safety; and (5) use of land. Fundamentally, the higher level the decision is, the less likely an environmental analyst will be able to quantify impacts or even predict the probability of some impacts. Although the SEA is generally oriented to providing environmental information at a macro level, it will inform decision-makers and the public of the uncertainties necessary to assess whether and when it is appropriate to move to the next stage of decision-making.

Streamlining: Once completed, the SEA could be tiered into a formal programmatic analysis for either a particular energy resource category (electricity transmission, nuclear energy plant, renewable energy opportunities, etc.) or for all energy resources within specific regions or ecosystems. Most assuredly, the effects of a particular energy project would not have exactly the same environmental impacts across different ecosystems. Data and information will be required to determine the effects on a specific ecosystem. While these data feed analysis, many times agencies generate their own data without sharing among other governmental entities. This is costly and time-consuming, and is a major reason for delay. Even with existing data, federal and state agencies do not have the infrastructure to coordinate sharing data or information. As part of the SEA process, we propose to collect databases, rationalize them, and act as the single data reservoir for the regional agencies in these energy-related fields, building a process that can be used in other regions. Further, we propose to coordinate a single analysis for an entire ecosystem and run all the permitting processes in parallel, instead of sequentially. Each agency

could then "adopt" the analysis prepared at the regional level and tier back to the SEA in compliance with the CEQ regulations. Given its broad scope, SEA presents the opportunity to combine economic development, environmental protection, and community well-being in one analysis, not three.

Litigation Avoidance: Inadequate compliance with environmental laws, including NEPA compliance, results in stopped, altered or delayed projects. Over thirty years, a substantial body of case law has been created recognizing that the environment must be a considered in agency decision-making. An advantage of SEA is the opportunity to use the benefits of NEPA to provide an Early Warning System without litigation risk. SEA provides for the open discussion of impacts and alternatives, a clear goal of the framers of NEPA, without allowing litigation strategy to drive the outcome. As there is no irreversible commitment of resources at the strategic level, the SEA permits objective information gathering without the legal threats that have become common.

Early Public Consultation: When to involve the public in a decision-making process remains one of the most vexing questions in environmental compliance. However, the SEA allows the public to participate at the earliest possible stage when actions are still uncertain and proposals are open to discussion. Presently, the public is actively engaged in the issue of a national energy policy. They have watched California closely and have definite and distinctive opinions about the best strategic direction for the country. The SEA will provide a vehicle for the Task Force to encourage meaningful public participation. Our team will build a regional model that can be modified based on lessons-learned and transported nation-wide.

Uncertainty. The lack of data is often cited as a reason why environmental documentation cannot be prepared at a higher, strategic level. Typically, analysts crave data and, at times, become entangled in it. Indeed, there are points in the decision-making stages when more detail is required. Usually, however, that is at a tier (or two) following the strategic decision. This tiering further diminishes the litigation risk to the national energy policy SEA because NEPA insures that there will be future opportunities to challenge actions without delaying the policy-level decision. In essence, the SEA does not detail *how* you are going to do something, but *what* you are going to do.

Conclusion

Policy development is a dynamic process and it is inevitable that policy issues will never be as precise as some would like. However, as decisions are incremental, so too should environmental processes maximize the use of a tiering, incremental approach. SEA moves the focus from one place or one site, to a more strategic level, so that policy makers can see how their entire operation fits in a national or even global context. Once prepared, however, the time to implement the national energy policy will be reduced by limiting the scope of future decisions to the project or program under consideration. We propose to manage such a process.

PROPOSAL

Task 1: Develop a brief and concise Strategic Environmental Assessment for one or more regions for the Energy Task Force to be delivered by the spring 2002.

Task 2: Coordinate federal agency requirements in a region for use by the Task Force.

Task 3: Coordinate the development of data and information required by region.

Task 4: Coordinate the preparation of tiered environmental impact analyses within a region or regions.